

PUBLIC CHAPTER NO. 1062

SENATE BILL NO. 2582

By Burks, Harper, Raymond Finney, Williams, Herron, Marrero, Henry, Ford

Substituted for: House Bill No. 2502

By Sherry Jones, Harry Brooks, Overbey, John Deberry, Montgomery, Lois DeBerry

AN ACT to amend Tennessee Code Annotated, Title 3; Title 4; Title 33; Title 37; Title 49 and Title 71, relative to the mental health needs of Tennessee's children and youth.

WHEREAS, issues surrounding access to children's mental health care in the State of Tennessee are consistently raised across all areas of the state and stakeholders report they experience challenges in accessing appropriate, timely mental health care to such a degree that a child's well-being has been compromised and the likelihood of positive outcomes has been diminished; and

WHEREAS, there exist access barriers to children's mental health services, including, but not limited to, geographic issues related to unequal distribution of resources; disparity between reimbursement rates and cost of care; and lack of consistent information regarding the various services, supports, and specialty care providers available in the state; and

WHEREAS, there is a lack of infrastructure to support the functions of interagency coordination, collaboration, planning and systems integration, as well as care coordination for individual children; and

WHEREAS, Tennessee children need access to mental health services during childhood and adolescence, and all children benefit from mental health education and wellness; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 37, Chapter 3, Part 1, is amended by inserting the following new sections thereto:

§ 37-3-110.

As used in this section and in §§ 37-3-111 – 37-3-115, unless the context otherwise requires:

(1) "Child-centered" means a system in which the needs of the child are at its core and which integrates services and programs offered by various departments of state government,

units of local government, and public and private agencies to support and serve such child;

(2) "Commission" means the Tennessee Commission on Children and Youth;

(3) "Council" means the council on children's mental health care;

(4) "Culturally competent" means a system that has the ability to deliver and ensure access to services in a manner that effectively responds to the values and practices present in the various cultures of children;

(5) "Demonstration sites" means certain geographic areas throughout the state where children's mental health care is in keeping with the principles set out in § 37-3-112(b);

(6) "Family" means the members of a household living, on a full-time or a part-time basis, in one (1) house, condominium, apartment or other dwelling; people related by blood or ancestry, marriage, or adoption; any person who is held out to the public as being a family member of a child; foster parents and foster children; stepparents and stepchildren; and any other group that the council determines by policy or rule to constitute a family for purposes of this part;

(7) "Family-driven" means a system in which the needs of the family are at its core and which integrates services and programs offered by various departments of state government, units of local government, and public and private agencies to support and serve such family;

(8) "Linguistically competent" means a system that has the ability to deliver and ensure access to services in a manner that effectively responds to the languages present in the various cultures of children;

(9) "Mental health care" means all services and programs offered by various departments of state government, units of local government, public and private agencies that support and serve the mental health needs of children and their families; and

(10) "Mental health needs" means any significant behavioral problem or emotional disorder, whether such problem or disorder is biologically-based or due to environmental factors, including, but not limited to, any psychiatric disorder, alcohol or substance abuse, depression or suicide, hyperactivity or attention-deficit disorder.

(a) There shall be a council on children's mental health care organized by the commission that shall design a plan for a statewide system of mental health care for children.

(b) The council shall be co-chaired by the executive director of the Commission on Children and Youth and the Commissioner of the Department of Mental Health and Developmental Disabilities or either of their designees.

(c) Members of the council shall include, but not be limited to:

(1) The commissioners or their designees of the Departments of Children's Services, Finance and Administration, Health, Human Services, Education;

(2) The director of the Bureau of TennCare or their designee;

(3) Two (2) persons from the Department of Mental Health and Developmental Disabilities who are selected by the commissioner, provided one (1) person be familiar with children and youth services and one (1) person be familiar with alcohol and drug abuse services;

(4) The chairman of the Commission on Children and Youth or their designee;

(5) One (1) member of the governor's personal staff appointed by the governor;

(6) One (1) legislator appointed by the Speaker of the Senate and one (1) legislator appointed by the Speaker of the House of Representatives; and

(7) One (1) representative from the comptroller of the treasury.

(d) Other members of the council shall be selected by the co-chairs and shall include:

(1) Four (4) parents of children who have received mental health services from a state agency or other provider and are chosen from nominations received from representatives of statewide organizations that advocate for or serve children's mental health needs, that provide for representation from each of the three (3) grand divisions of the state and from both urban and rural areas;

(2) Two (2) persons who are under twenty-four (24) years of age and who are receiving or have received mental health services from a state agency or other provider and are chosen

from nominations received from representatives of statewide organizations that advocate for or serve children's mental health needs;

(3) Three (3) representatives of the community services agencies, or its successor organization, as established pursuant to § 37-5-304;

(4) Two (2) representatives of a statewide organization that advocates for children's mental health needs;

(5) Two (2) representatives of providers of children's mental health services; and

(6) Three (3) judges chosen by the Tennessee Council of Juvenile and Family Court Judges that provide for representation from each of the three (3) grand divisions of the state and both urban and rural areas.

(e) Following three (3) consecutive absences, the co-chairs may declare a vacancy and request that a new member be appointed pursuant to this section who meets the criteria of the replaced member.

(f) The members of the council shall receive no salary. Only members of the council selected pursuant to (d)(1) and (d)(2) shall be reimbursed necessary travel and per diem expenses as prescribed in the comprehensive travel regulations by the Commissioner of Finance and Administration for employees of the State of Tennessee, provided that, all other members who are employed by the state or who are holding elected office will be compensated and reimbursed in keeping with the performance of their official roles or capacities.

(g) As well as serving as a voting member on the council, the executive director of the commission or their designee shall also serve as the chief administrative officer of the council. The executive director shall have the authority to conduct ordinary and necessary business in the name of the council in accordance with the provisions of this section or as determined by the council.

(h) The council shall meet as necessary to transact business; provided, that meetings shall be held at least quarterly and such meetings shall be open to organizations, agencies, and individuals who work in the area of children's mental health, including, but not limited to, mental health services, educational services, substance abuse services, recreational services, social services, health services, vocational services, operational services and nontraditional services, to seek opportunities to collaborate and improve the statewide system of children's mental health care. The council's quarterly meetings shall pay particular attention to interagency collaboration, funding, accountability, information management, and service array;

(i) All meetings held by the council are subject to the open meeting provisions of Title 8, Chapter 44.

§ 37-3-112.

(a) The council shall develop a plan for a statewide system of care where children's mental health care is child-centered, family-driven, and culturally and linguistically competent and that provides a coordinated system of care for children's mental health needs in the State of Tennessee.

(b) The plan developed pursuant to subsection (a) shall provide for a service delivery system operated in a manner that provides the following principles of care:

(1) Children with mental health needs should have access to a comprehensive array of services that address the child's physical, emotional, social and educational needs;

(2) Children with mental health needs should receive individualized services in accordance with the unique needs and potentials of each child and guided by an individualized service plan;

(3) Children with mental health needs should receive services within the least restrictive, most normative environment that is therapeutically appropriate;

(4) The families of children with mental health needs should be full participants in all aspects of the planning and delivery of services;

(5) Children with mental health needs should receive services that are integrated, with linkages between child-serving agencies and programs and mechanisms for planning, developing and coordinating such services;

(6) Children with mental health needs should be provided with case management or similar mechanisms to ensure that multiple services are delivered in a coordinated, integrated and therapeutic manner and that each child can move through the system of services in accordance with their changing needs;

(7) Early identification and intervention for children with mental health needs should be promoted by the system of care in order to enhance the likelihood of positive outcomes;

(8) Children with mental health needs whose needs continue beyond adolescence should be ensured smooth transitions to the adult service system as each child reaches adulthood;

(9) The rights of children with mental health needs should be protected; and

(10) Children with mental health needs have access to services without regard to race, religion, national origin, sex, physical disability, or other characteristics and services should be sensitive and responsive to cultural differences and special needs.

(c) The plan shall include a core set of services and supports that appropriately and effectively addresses the mental health needs of children and families.

(d) The council, to guide and support the plan, shall also develop a financial resource map and cost analysis of all federal and state funded programs that support and serve children's mental health needs in the State of Tennessee. The council shall assure the financial resource map and cost analysis are updated annually so as to maintain a current cost analysis of the funds used to support children's mental health care needs in the state from conception through the age of majority or so long as the child receives services provided by these funding streams. The resource map and cost analysis shall include, but not be limited to:

(1) An inventory of all federal and state funding sources that support children's mental health needs in the State of Tennessee;

(2) A description of the manner in which the funds are being used within the agencies or organizations, the performance measures in place to assess the use of such funding and the intended outcomes of the programs and services;

(3) Government mandates for the use of such funds, if any; and

(4) An inventory of the funds for which the state may be eligible, but is currently not receiving or using, and the reasons why such funds are not being used.

§ 37-3-113.

In addition to other duties imposed by law, the council shall also perform the following duties:

(a) Facilitate interagency coordination and collaboration in the planning, funding, delivery and evaluation of a statewide system of mental health care for children;

(b) Define accountability standards among all agencies and organizations that provide services and support relative to the mental health needs of children and their families;

(c) Encourage the matching of federal funds required by federal grants for children's mental health initiatives;

(d) Serve as an advocate within government and in the community for children's mental health care in Tennessee;

(e) Stimulate more effective use of existing resources and services for children; and develop programs, opportunities and services that are not otherwise provided for children, with the aim of developing a comprehensive and coordinated system for the delivery of mental health services to children in the state; and

(f) Assist the Department of Mental Health and Developmental Disabilities in the development of interagency agreements on services and supports for children.

(g) Determine, in consultation with appropriate research experts, which programs that are currently being used to serve or support children's mental health needs in the state are evidence-based, as defined by § 37-5-121(a)(1); research-based, as defined by § 37-5-121(a)(3); and theory-based, as defined by § 37-5-121(a)(1)(4). The council shall provide such findings in its annual report submitted in accordance with § 37-1-115, including an explanation of the support for those findings.

§ 37-3-114.

The council may perform each of the following duties:

(1) Promulgate bylaws to provide for the election of council officers, establishment of committees, meetings, and other matters relating to council functions;

(2) Request and receive the cooperation of other state departments and agencies in carrying out the policies and objectives of this part;

(3) Enter into such contracts and make such grants within the limits of appropriated funds, as are necessary or appropriate under this section, and in a manner consistent with state or federal law;

(4) Advise the governor and the heads of state departments and agencies regarding policies, programs, services, allocation of funds, and children's mental health needs in Tennessee and make recommendations for legislative action to the governor and to the general assembly;

(5) Hold hearings, conduct research and other appropriate activities to determine the mental health needs of children in the state, including particularly, but not limited to, their needs for

health and social services, and to determine the existing services and facilities, private and public, available to meet those needs; and

(6) Review data, reports and outcomes of local, state and national system of care implementation, as well as other relevant data or research.

§ 37-3-115.

(a) No later than February 1, 2009, the council shall submit a report regarding the status of the development of a plan for a statewide system of care for children's mental health. The report shall include, but not be limited to, the timeline for development of the overall plan; barriers to implementation of such a plan, if any; a list of all programs currently in place to serve and support children's mental health needs and whether those programs are evidence-based, research-based or theory-based; the status of interagency cooperation relative to a system of children's mental health care throughout the state; and a financial resource map of all current federal and state funded programs that support or serve children with mental health needs in the state. The report shall also include cost analysis information produced in accordance with the provisions of § 37-3-112(d) and shall provide recommendations for improving efficiency in the use of existing state and federal funds by increasing coordination of children's mental health care with other child-focused service delivery systems.

(b) No later than July 1, 2010, the council shall submit a plan prepared in accordance with the provisions of § 37-3-112 and a budget for implementing such plan. The plan shall provide for demonstration sites in at least three (3) areas of the state, with at least one (1) area to be in each grand division. If the plan submitted by July 1, 2010, is approved and funded by the legislature no later than July 1, 2012, the council shall submit a plan and budget for extending the demonstration sites to a total of no less than ten (10) areas of the state selected by the council. If the plan submitted by July 1, 2012, is approved and funded by the legislature, no later than July 1, 2013, the council shall submit a plan that will accomplish implementation of the system of children's mental health care statewide. The council shall create and submit with each plan current financial resource maps and cost analysis, and such information shall be required to accompany any recommendations the council makes regarding the continued development of a statewide system of children's mental health care.

(c) The plan, budget and report required by subsections (a) and (b) of this section shall be submitted to the governor, the Judiciary Committees of the Senate and the House of Representatives, the General Welfare, Health and Human Resources Committee of the Senate, the Education Committees of the Senate and the House of Representatives, the Health and Human Resources Committee of the House of Representatives, the Children and Family Affairs Committee of

the House of Representatives, the Select Committee on Children and Youth, and the Select Oversight Committee on TennCare.

SECTION 2. Tennessee Code Annotated, Section 33-1-304, is amended by inserting the following new, appropriately designated subdivision thereto:

() Notwithstanding any provision of law to the contrary, assist the council on children's mental health care in developing a plan that will establish demonstration sites in certain geographic areas where children's mental health care is child-centered, family-driven, and culturally and linguistically competent and that provides a coordinated system of care for children's mental health needs in the State of Tennessee.

SECTION 3. Tennessee Code Annotated, Title 33, Chapter 1, Part 3, is amended by adding the following new section thereto:

§ 33-1-311.

The department shall involve the council on children's mental health care in the development of interagency projects and programs, whether state or federally funded, related to children's mental health care, except where otherwise prohibited by state or federal law.

SECTION 4. Tennessee Code Annotated, Section 33-1-308(a)(1), is amended by deleting the language "children," from the first sentence and replacing it with the language "children in coordination with the council on children's mental health care,".

SECTION 5. Tennessee Code Annotated, Section 33-8-102, is amended by inserting the following language in the first sentence between "department" and "shall" "in coordination with the council on children's mental health care".

SECTION 6. Tennessee Code Annotated, Section 33-8-106, is amended by deleting the language "the department" and replacing it with the language "the department and the council on children's mental health care".

SECTION 7. Tennessee Code Annotated, Section 37-1-502, is amended by inserting the following new subsection (c):

(c) Notwithstanding any provision of law to the contrary, the council shall assist the council on children's mental health care in developing a plan that will establish demonstration sites in certain geographic areas where children's mental health care is child-centered, family-driven, and culturally and linguistically competent and that provides a coordinated system of care for children's mental health needs in the State of Tennessee.

SECTION 8. Tennessee Code Annotated, Title 37, Chapter 5, Part 1, is amended by inserting the following new section thereto:

§ 37-5-126.

Notwithstanding any provision of law to the contrary, the department shall assist the council on children's mental health care in developing a plan that will establish demonstration sites in certain geographic areas where children's mental health care is child-centered, family-driven, and culturally and linguistically competent and that provides a coordinated system of care for children's mental health needs in the State of Tennessee. The department shall also involve the council in the development of interagency projects and programs, whether state or federally funded, related to children's mental health care, except where otherwise prohibited by state or federal law.

SECTION 9. Tennessee Code Annotated, Section 49-1-201, is amended by inserting the following new subsection (d) thereto:

(d) Notwithstanding any provision of law to the contrary, the commissioner shall assist the council on children's mental health care in developing a plan that will establish demonstration sites in certain geographic areas where children's mental health care is child-centered, family-driven, and culturally and linguistically competent and that provides a coordinated system of care for children's mental health needs in the State of Tennessee.

SECTION 10. Tennessee Code Annotated, Title 49, Chapter 1, Part 2, is amended by adding the following new section thereto:

§ 49-1-221.

The department shall involve the council in the development of interagency projects and programs, whether state or federally funded, related to children's mental health care, except where otherwise prohibited by state or federal law.

SECTION 11. Tennessee Code Annotated, Section 71-5-105(a), is amended by inserting the following new appropriately designated subdivision thereto:

() Notwithstanding any provision of law to the contrary, assist the council on children's mental health care in developing a plan that will establish demonstration sites in certain geographic areas where children's mental health care is child-centered, family-driven, and culturally and linguistically competent and that provides a coordinated system of care for children's mental health needs in the State of Tennessee.

SECTION 12. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following new section thereto:

§ 71-5-193.

The department shall involve the council in the development of interagency projects and programs, whether state or federally funded, related to children's mental health care, except where otherwise prohibited by state or federal law.

SECTION 13. Tennessee Code Annotated, Section 4-29-231(a), is amended by adding a new subdivision thereto, as follows:

() Council on children's mental health care, created by § 37-3-111.

SECTION 14. Notwithstanding any provision of law to the contrary, the Department of Health shall assist the council on children's mental health care in developing a plan that will establish demonstration sites in certain geographic areas where children's mental health care is child-centered, family-driven, and culturally and linguistically competent and that provides a coordinated system of care for children's mental health needs in the State of Tennessee.

SECTION 15. For the purpose of making appointments to the council and for promulgating necessary rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2008.

PASSED: May 13, 2008


RON RAMSEY
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 28th day of May 2008


PHIL BREDESEN, GOVERNOR